

June 26, 2013

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Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Notice of Ex Parte – CG Docket Nos. 03-123 and 10-51**
Purple Communications, Inc.

Dear Ms. Dortch:

On June 25, 2013, John Goodman, Chief Legal Officer for Purple Communications, Inc. (“Purple”), and the undersigned, Purple’s outside counsel, participated in a conference call with the following staff from the Consumer and Governmental Affairs Bureau: Mark Stone (Deputy Bureau Chief) and Wes Platt (Legal Advisor). The discussion focused on IP Relay rates.

We discussed the importance of IP Relay, a text-based service which predates Video Relay Service (“VRS”), and is, in many ways, analogous to traditional TTY service. Because the service is text-based, the individuals who use it do not need to be fluent in American Sign Language (“ASL”). As a result, it can be used not only by people who are deaf, but also by individuals who are hard of hearing and those who have speech disabilities but do not communicate in ASL. IP Relay is also widely used by VRS users in situations where VRS is not available or possible. And at the current rate of \$1.285/minute, it is a relatively low-cost Telecommunications Relay Service (“TRS”) on a per-minute basis compared to VRS, and serves as a cost-effective substitute for many calls that would otherwise be conducted by VRS.

Additionally, we emphasized that the cost of providing IP Relay is increasing, not decreasing. The minutes of use of the service have steadily declined for several years, and recently declined sharply, coinciding with recent regulatory changes.¹ Indeed, from July 2012 to May 2013, the monthly minutes of use dropped from 2.3 million to 1.7 million.² While there are likely several reasons for

¹ See, e.g., *Misuse of Internet Protocol (IP) Relay Service, et al.*, CG Docket No. 12-38, *et al.*, First Report and Order, 27 FCC Rcd 7866 (rel. June 29, 2012).

² See Rolka Loube Saltzer Associates (“RLSA”) Interstate TRS Fund Performance Status Report, Funding Year July 2012 – June 2012, reports for July 2012 and May 2013, <http://www.r-l-s-a.com/TRS/reports/2012-07TRSStatus.pdf> and <http://www.r-l-s-a.com/TRS/reports/2013-05TRSStatus.pdf>. We note that the Fund Administrator, in projecting nearly 22 million minutes of use for the 2013-2014 Fund year, likely overstates demand. See RLSA Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51, Exhibits 1-3 and Exhibit 2 (May 1, 2013).

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the decline, the impact on provider costs is the same: decline in use makes it more expensive to provide the service. There are no efficiencies to be gained as minutes of use continue to decline. The record supports adjusting rates in a declining service similar to traditional text relay, which increase as the service demand decreases over time. As acknowledged by RLSA, this is a labor intensive business with the largest provider costs being the salaries and benefits of the communications assistants.³ Accordingly, and as acknowledged by the Fund Administrator, the current rate of return methodology simply does not make sense in this industry, which is not capital-intensive. In addition, fixed costs remain the same, and providers are required to continue staffing levels that will allow them to comply with more stringent minimum standards. All of these factors contribute to increasing costs on a per minute basis.

It is also important to keep in mind that IP Relay is only 3% of the entire TRS Fund. As a result, based on current call volumes, maintaining a steady rate or slightly increasing it will have only a negligible (less than 0.5%) impact on the entire Fund. An aggressive rate cut, however, will have a very significant impact – likely decreasing consumer choice and potentially putting at risk the very existence of this critical service.⁴ As such, there is virtually no reward to the Fund for taking such a risk.

Purple appreciates and applauds the Commission's setting of a four-year rate for VRS (even if Purple does not necessarily agree with the longer term rates that were set for VRS), given the greater visibility that such a rate period affords providers and their investors. Having the ability to plan over a longer term is beneficial for providers and for investment purposes. In the IP Relay context, Purple strongly recommends that the Commission set long-term rates while keeping in mind the steady decline in use of this vital service, and the increasing costs of providing the service.

Respectfully submitted,



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³ See RLSA Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51, at 23 (May 1, 2013).

⁴ Hamilton Relay and AT&T have already exited the market. See Comments of Purple Communications, Inc., CG Docket Nos. 10-51 and 03-123, at 5 (May 31, 2013).



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